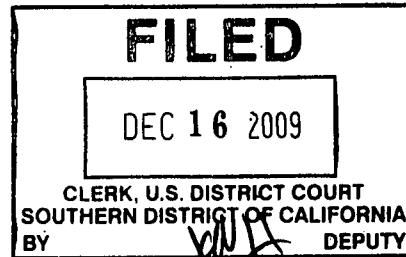


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**tfriedman@attorneysforconsumers.com**  
**Attorney for Plaintiff**



**UNITED STATES DISTRICT COURT  
 FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

**ETHELYN HOLMES,**

Plaintiff,

vs.

**RETRIEVAL-MASTERS  
 CREDITORS BUREAU, INC.,**

Defendant.

) Case No. **'09CV 2835 WQH**  
 )  
 ) **COMPLAINT FOR VIOLATION**  
 ) **OF FEDERAL FAIR DEBT**  
 ) **COLLECTION PRACTICES ACT,**  
 ) **ROSENTHAL FAIR DEBT**  
 ) **COLLECTION PRACTICES ACT,**  
 ) **AND INVASION OF PRIVACY**

**NLS**

**I. INTRODUCTION**

1. This is an action for damages brought by an individual consumer for Defendant's violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.* (hereinafter "FDCPA"), and the Rosenthal Fair Debt Collection Practices Act, Cal Civ Code § 1788, *et seq.* (hereinafter "RFDCPA"), both of which prohibit debt collectors from engaging in abusive, deceptive, and unfair practices. Ancillary to the claims above, Plaintiff further alleges claims for

*OK*

1 invasion of privacy arising from intrusion upon seclusion and public disclosure of  
2 private facts.  
3

## 4 II. JURISDICTION

5 2. Jurisdiction of this Court arises under 15 U.S.C. § 1692k(d).  
6

## 7 III. PARTIES

8 3. Plaintiff, ETHELYN HOLMES ("Plaintiff"), is a natural person  
9 residing in San Diego county in the state of California, and is a "consumer" as  
10 defined by the FDCPA, 15 U.S.C. § 1692a(3) and is a "debtor" as defined by Cal  
11 Civ Code 1788.2(h).  
12

13 4. At all relevant times herein, Defendant, RETRIEVAL MASTERS  
14 CREDITORS BUREAU, INC., ("Defendant") was a company engaged, by use of  
15 the mails and telephone, in the business of collecting a debt from Plaintiff which  
16 qualifies as a "debt," as defined by 15 U.S.C. § 1692a(5), and a "consumer debt,"  
17 as defined by Cal Civ Code § 1788.2(f). Defendant regularly attempts to collect  
18 debts alleged to be due another, and therefore is a "debt collector" as defined by  
19 the FDCPA, 15 U.S.C. § 1692a(6), and RFDCPA, Cal Civ Code § 1788.2(c).  
20  
21  
22

## 23 IV. FACTUAL ALLEGATIONS

24 5. At various and multiple times prior to the filing of the instant  
25 complaint, including within the one year preceding the filing of this complaint,  
26 Defendant contacted Plaintiff in an attempt to collect an alleged outstanding debt.  
27  
28

1 Defendant's conduct violated the FDCPA and the RFDCPA in multiple ways,  
 2 including but not limited to:  
 3

- 4 a) Causing a telephone to ring repeatedly or continuously  
 5 to annoy Plaintiff (Cal Civ Code § 1788.11(d)),  
 6 including, but not limited to, calling Plaintiff more than  
 7 twice a day, more than ten times a week, and more than  
 8 twenty times a month;
- 9 b) Communicating, by telephone or in person, with  
 10 Plaintiff with such frequency as to be unreasonable and  
 11 to constitute an harassment to Plaintiff under the  
 12 circumstances (Cal Civ Code § 1788.11(e)), including,  
 13 but not limited to, calling Plaintiff more than twice a  
 14 day, more than ten times a week, and more than twenty  
 15 times a month;
- 16 c) Causing Plaintiffs telephone to ring repeatedly or  
 17 continuously with intent to harass, annoy or abuse  
 18 Plaintiff (§ 1692d(5)), including, but not limited to,  
 19 calling Plaintiff more than twice a day, more than ten  
 20 times a week, and more than twenty times a month;
- 21 d) Falsely representing the character, amount, or legal  
 22 status of Plaintiffs debt (§ 1692e(2)(A));
- 23 e) Failing to provide Plaintiff with the notices required by  
 24 15 USC § 1692g, either in the initial communication  
 25 with Plaintiff, or in writing within 5 days thereof,  
 26 including (§ 1692g(a)); and
- 27 f) Where Defendant had not yet made an attempt to  
 28 contact Plaintiff's counsel or had not given Plaintiff's  
 counsel sufficient time to respond to the initial attempt  
 to communicate with Plaintiff's counsel, and where  
 Plaintiff's counsel had not given Defendant permission  
 to contact Plaintiff directly, communicating with  
 Plaintiff directly after learning that Plaintiff is being  
 represented by counsel (§ 1692c(a)(2)).

6. Defendant's aforementioned violations of the FDCPA and RFDCPA  
 also constitute an intentional intrusion into Plaintiff's private places and into

1 private matters of Plaintiff's life, conducted in a manner highly offensive to a  
2 reasonable person. Plaintiff had a subjective expectation of privacy that was  
3 objectively reasonable under the circumstances.  
4

5 7. Defendant's aforementioned disclosure of facts regarding Plaintiff's  
6 debt to third parties constitutes a public disclosure of a private fact not of  
7 legitimate public concern. Defendant's disclosures were highly offensive to a  
8 reasonable person.  
9  
10

11 8. As a result of the above violations of the FDCPA, RFDCPA and  
12 invasion of privacy, Plaintiff suffered and continues to suffer injury to Plaintiff's  
13 feelings, personal humiliation, embarrassment, mental anguish and emotional  
14 distress, and Defendant is liable to Plaintiff for Plaintiff's actual damages,  
15 statutory damages, and costs and attorney's fees.  
16  
17

18 **COUNT I: VIOLATION OF FAIR DEBT**  
19 **COLLECTION PRACTICES ACT**

20 9. Plaintiff reincorporates by reference all of the preceding paragraphs.  
21

22 **PRAYER FOR RELIEF**

23 WHEREFORE, Plaintiff respectfully prays that judgment be entered  
24 against the Defendant for the following:  
25

- 26 A. Declaratory judgment that Defendant's conduct  
27 violated the FDCPA;  
28 B. Actual damages;

- C. Statutory damages;
- D. Costs and reasonable attorney's fees; and,
- E. For such other and further relief as may be just and proper.

**COUNT II: VIOLATION OF ROSENTHAL  
FAIR DEBT COLLECTION PRACTICES ACT**

10. Plaintiff reincorporates by reference all of the preceding paragraphs.

11. To the extent that Defendant's actions, counted above, violated the RFDCPA, those actions were done knowingly and willfully

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully prays that judgment be entered against the Defendant for the following:

- A. Declaratory judgment that Defendant's conduct violated the RFDCPA;
- B. Actual damages;
- C. Statutory damages for willful and negligent violations;
- D. Costs and reasonable attorney's fees,
- E. For such other and further relief as may be just and proper.

**COUNT III: COMMON LAW INVASION OF PRIVACY BY INTRUSION  
AND INVASION OF PRIVACY BY PUBLICATION OF PRIVATE FACTS**

12. Plaintiff reincorporates by reference all of the preceding paragraphs.

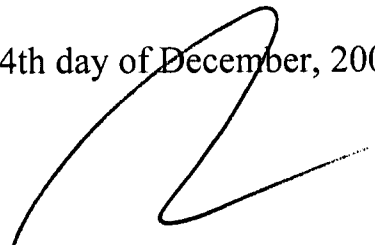
**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully prays that judgment be entered against the Defendant for the following:

- 1 A. Actual damages  
2 B. Punitive Damages; and,  
3 C. For such other and further relief as may be just and proper.  
4

5 **PLAINTIFF HEREBY REQUESTS A TRIAL BY JURY**

6 Respectfully submitted this 14th day of December, 2009.  
7

8  
9 By:   
10 **TODD M. FRIEDMAN (216752)**  
11 **LAW OFFICES OF TODD M.**  
12 **FRIEDMAN, P.C.**  
13 **369 S. Doheny Dr. #415**  
14 **Beverly Hills, CA 90211**  
15 **Phone: 877 206-4741**  
16 **Fax: 866 633-0228**  
17 **tfriedman@attorneysforconsumers.com**  
18 **Attorney for Plaintiff**  
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## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

## I. (a) PLAINTIFFS

ETHELYN HOLMES

(b) County of Residence of First Listed Plaintiff San Diego  
(EXCEPT IN U.S. PLAINTIFF CASES)

**'09CV 2835 WQH NLS**

(c) Attorney's (Firm Name, Address, and Telephone Number)

Law Offices of Todd M. Friedman, P.C.  
369 S. Doheny Dr. #415, Beverly Hills, CA 90211, 877-206-4741

## DEFENDANTS

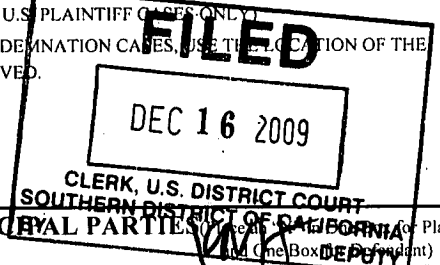
RETRIEVAL-MASTERS CREDITORS BUREAU, INC.

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)



## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (For Diversity Cases Only)

- |   |                            |                            |   |                            |                            |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
|   | PTF                        | DEF                        |   | PTF                        | DEF                        |
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609
				<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes

## V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
15 USC 1692

Brief description of cause:  
Violation of the Fair Debt Collection Practices Act

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

## DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

12/14/2009

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

8415

AMOUNT

350.00

APPLYING IFP

JUDGE

MAG. JUDGE

NLS

12/17/09

Court Name: USDC California Southern  
Division: 3  
Receipt Number: CAS008415  
Cashier ID: msweaney  
Transaction Date: 12/17/2009  
Payer Name: LO OF TODD M FRIEDMAN

---

CIVIL FILING FEE  
For: HOLMES V RETRIEVAL-MASTERS  
Case/Party: D-CAS-3-09-CV-002835-001  
Amount: \$350.00

---

CHECK  
Check/Money Order Num: 1663  
Amt Tendered: \$350.00

---

Total Due: \$350.00  
Total Tendered: \$350.00  
Change Amt: \$0.00

---

There will be a fee of \$45.00  
charged for any returned check.